

Decision 16-10-021 October 28, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Saigon Express, a California corporation, for a Certificate of Public Convenience and Necessity to provide regularly scheduled passenger stage service, between points in the cities of San Diego, Westminster, Cerritos, San Gabriel, San Jose, Oakland and San Francisco; and, to establish a Zone of Rate Freedom.

Application 16-05-009
(Filed May 17, 2016)

**EXECUTIVE DIRECTOR ORDER GRANTING
APPLICATION**

Summary

This decision grants the application Saigon Express, a California corporation, pursuant to Pub. Util. Code § 1031 et seq., for a Certificate of Public Convenience and Necessity to operate as a scheduled Passenger Stage Corporation, as defined in Pub. Util. Code § 226, and to establish a Zone of Rate Freedom, pursuant to Pub. Util. Code § 454.2. This application was filed pursuant to the procedures adopted in Decision (D.)15-05-029.

Discussion

Saigon Express, a California corporation (Applicant), requests authority to operate as a scheduled Passenger Stage Corporation (PSC) to transport passengers and their baggage between points in the cities of San Diego, Westminster, Cerritos, San Gabriel, San Jose, Oakland and San Francisco.

Applicant proposes PSC operations on a scheduled basis, one roundtrip per van per day, seven (7) days per week, 365 days a year, between 6:30 AM and 7:00 PM with a fleet of two 15-passenger vans. A 24-hour reservation is required to guarantee a seat on the van.

The balance sheet submitted by Applicant shows assets of \$873,066, liabilities of \$391,627, with a net worth of \$481,439.

The proposed one-way fares range from \$10 (Cerritos to Westminster) to \$90 (San Diego to San Francisco). Applicant requests authority to establish a Zone of Rate Freedom (ZORF) of \$5 above and below proposed fares of \$20 or less, or \$10 above and below fares between \$20 and \$40, or \$20 above and below fares \$40 or greater; however, Ordering Paragraph (O.P.) 11 of D. 15-05-029 limits fare adjustments to no more than 15 percent of the initial fares. In the case of the \$10 fare, \$5 would be 50 percent. Hence we will limit the ZORF to 15 percent. Applicant will compete with other PSCs, taxicabs, charter limousines and sedans, public transit, and private automobiles in the service area. This highly competitive environment should result in Applicant pricing his services at a reasonable level. Many other PSCs have been granted ZORFs.

Notice of filing of the application appeared in the Commission's Daily Calendar on May 23, 2016. Applicant served copies of the application on the Cities and Counties and regional public transit authorities in the involved area.

Since the proposed service will reduce the number of vehicles on the public highways in between points in the service territory, a California Environmental Quality Act review is not required because it can be seen with certainty that there is no possibility that the activity may have a significant adverse effect on the environment.

In Resolution ALJ 176-3378, dated May 26, 2016, the Commission preliminarily categorized this application as ratesetting, and preliminarily

determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3378.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Safety Considerations

In order to be authorized to commence operations as a PSC, the Applicant must comply with the following requirements in order to protect public safety: Proof of insurance pursuant to General Order Series 101, compliance with the controlled substance and alcohol testing program pursuant to Pub. Util. Code §1032.1 and General Order Series 158, and enrollment in the pull notice system as required by Section 1808.1 of the Vehicle Code.

Assignment of Proceeding

Nick Zanjani is the assigned Examiner in this proceeding.

Findings of Fact

1. The application requests authority to operate as a scheduled PSC to transport passengers and their baggage between points in the cities of San Diego, Westminster, Cerritos, San Gabriel, San Jose, Oakland and San Francisco.
2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a Zone of Rate Freedom (ZORF) of \$5 above and below proposed fares of \$20 or less, or \$10 above and below fares between \$20 and \$40, or \$20 above and below fares \$40 or greater. O.P. 11

of D.15-05-029 limits fare adjustments to no more than 15 percent of the initial fares.

4. Applicant will compete with other PSCs, taxicabs, charter limousines and sedans, public transit, and private automobiles in his operations.

5. No protest to the application has been filed.

6. The application complies with the PSC certification procedures adopted in D.15-05-029.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application should be granted.

2. The Executive Director is authorized to sign, on behalf of the Commission, orders granting PSC certification in the process adopted in D.15-05-029.

3. A ZORF of 15 percent should be granted because the ZORF is fair and reasonable.

4. Before Applicant changes any fares under the ZORF authorized below, Applicant should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.

5. Because the matter is uncontested, the decision should be effective on the date it is signed.

6. A public hearing is not necessary.

7. A California Environmental Quality Act review is not required for this decision because it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse effect on the environment.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Saigon Express, a California corporation, authorizing it to operate as a scheduled Passenger Stage Corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix PSC-36670, subject to the conditions contained in the following paragraphs.

2. Saigon Express, a California corporation, shall:

- a. File a written acceptance of this certificate within 30 days after this decision is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this decision is effective.
- c. File tariffs on or after the effective date of this decision. The tariff shall become effective ten days or more after the effective date of this decision, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol safety rules.
- e. Comply with the Commission's controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so. Failure to comply with this filing will result in suspension and/or revocation of authority.
- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- h. Enroll all drivers in the Pull Notice System as required by Vehicle Code § 1808.1.

3. Saigon Express, a California corporation, is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom of 15% above and below proposed fares.

4. Saigon Express, a California corporation, shall file a zone of rate freedom (ZORF) tariff with the Commission and the public in accordance with the application at least ten days before the effective date of the tariff. The ZORF shall expire unless exercised within 120 days after the effective date of this decision.

5. Saigon Express, a California corporation, may make changes within the zone of rate freedom by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.

6. In addition to posting and filing tariffs, Saigon Express, a California corporation, shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Saigon Express, a California corporation, (Applicant), is authorized to begin operations on the date that the Safety and Enforcement Division mails a notice to applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the California Highway Patrol has approved the use of Applicant's vehicles for service.

8. Stop points established by Saigon Express, a California corporation, to load and discharge passengers shall conform to all applicable parking or passenger loading zone regulations adopted by local authorities.

9. The Certificate of Public Convenience and Necessity to operate as Passenger Stage Corporation (PSC)- 36670 granted herein, expires unless exercised within 120 days after the effective date of this decision.

10. The Application is granted as set forth above.

11. This proceeding is closed.

This decision is effective today.

Dated October 28, 2016, at San Francisco, California.

/S/ TIMOTHY J. SULLIVAN

Timothy J. Sullivan
Executive Director

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-36670

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

Saigon Express, a California corporation, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on a scheduled basis between the points described in Section II, over the routes described in Section III, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- a. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- b. Service shall be operated only at the points described in Section II. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable filed with the Commission.
- c. No passengers shall be transported except those having a point of origin or destination as described in Section II.
- d. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.
- e. Stop points established by the carrier to load and discharge passengers shall conform to all applicable parking or passenger loading zone regulations adopted by local authorities.

SECTION II. SERVICE AREA.

Points in the cities of San Diego, Westminster, Cerritos, San Gabriel, San Jose, Oakland, and San Francisco.

SECTION III. ROUTE DESCRIPTIONS

Commencing from any point described in Section II, then over the most convenient streets and highways to any other point in Section II.